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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,084	12/12/2003	Richard Rollin	5297/198	1606

7590 02/16/2007
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EXAMINER

CHAPMAN, GINGER T

ART UNIT	PAPER NUMBER
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3761

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/735,084

Applicant(s)

ROLLIN ET AL.

Examiner

Ginger T. Chapman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 9-13, 15 and 16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 9-13, 15 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of the claims

By way of Applicants' amendment filed 14 September 2006, claims 7, 8 and 14 are cancelled; claims 1-6, 9-13 and 15-16 are pending in the application.

Drawings

The drawings were received on 14 September 2006. These drawings are acceptable.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-6, 9-13 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waddell et al (EP 1,314,441) in view of Sandoval et al (US 4,266,765) and further in view of Bidwell (US 3,363,626).

With regard to claims 1, 3 and 11, Waddell discloses a thorax drainage system (fig. 1) comprising a first container (14) forming a secretion collecting chamber; a separate second container forming a nonreturn valve in the form of an underwater seal (12) with an associated removable cover (24); a drainage line (18) attached to a patient (16) and leads into secretion collecting chamber (14), a connecting line (40) between the two containers (12, 14); a vacuum pump (10); a connecting line (42) between vacuum pump (10) and container forming underwater seal (12), and a mobile trolley forming a mobile system (fig. 7D; c. 9, ll. 37-43), in which system

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the lines (40, 42) open into the cover (24) and the line (18) opens into the container (14), container (14) is closed tight [0010] and container (12) is closed tight [0021-0024] with associated cover (24) into which the lines (40, 42) open (26, 28), and at least the drainage line is a disposable line (c. 6, ll. 5-15), and the secretion-collecting chamber (14) is a first container and the underwater seal (12) is a separate second container forming a nonreturn valve (c. 6, ll. 49-50) and the two containers (12, 14) are closed tight, container (12) is closed with associated cover (24).

With regard to the limitation of the first container (14) cover, Waddell discloses the claimed configuration of lines opening into the cover of container (12) but does not expressly disclose the lines opening into the cover of container (14). However, as seen in Figure 1, lines (18) and (40) open into container (14), and, as taught by Waddell at [0004, 0010], vacuum is maintained within the system to insure ambient air does not enter the patients chest cavity thus the system is closed to ambient air, thus the container (14) inevitably and necessarily is closed tight otherwise vacuum pressure would not be maintained in the system. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the lines opening into the cover of the first container since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

With regard to the limitation of a trolley, Waddell discloses the components form a mobile system but does not expressly disclose a trolley for receiving all the system components. Sandoval et al, at column 1, lines 9-40 expresses the desire for a mobile trolley for receiving and maneuvered the heavy and bulky components for thorax drainage devices (c. 1, l. 28) that are generally connected to the patient by tubes (c. 1, l. 24). As seen in Figure 1, Sandoval et al

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disclose a mobile trolley (11). In particular Sandoval teach the mobile trolley (11) is for receiving the system components for a thorax drainage system (col. 3, ll. 65 to col. 4, ll. 21). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the mobile thorax drainage system of Waddell with a mobile trolley for receiving all system components since Sandoval et al state at col. 1, ll. 28-35 that the advantage of forming a system with such a mobile trolley is that a patient with heavy and bulky lung drainage devices can be easily transported with a reduced number of nurses.

Waddell discloses the thorax drainage system but does not expressly disclose a battery. Bidwell, at col. 7, ll. 56-59 teaches the ability of the activating elements of a thorax drainage system such as a motor and vacuum pump to be operated in response to portable power, i.e. a battery, thus disclosing the desire for a portable thorax drainage system. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the system of Waddell having a battery as taught by Bidwell et al since Bidwell states at col. 7, ll. 70-72 that the advantage of forming such a thorax drainage system is that the patients' life can be prolonged while transporting between a battlefield and hospital facilities.

With respect to claims 2, 10 and 16, Bidwell teaches that the prior art containers were disassembled and sterilized after each use, i.e. reusable (c. 2, ll. 67-68).

With respect to claims 4-6 and 12-13, Sandoval et al disclose the trolley (11) is designed to receive all the components of the thorax drainage system (c. 4, ll. 14-21; also c. 3, ll. 67-68 to c. 4, ll. 1-2).

With respect to claims 9 and 15, Waddell discloses the drainage line is disposable (see claim 1, *supra*).

Response to Arguments

Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new grounds of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ginger T. Chapman whose telephone number is (571) 272-4934. The examiner can normally be reached on Monday through Friday 9:30 a.m. to 6:00 p.m..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ginger Chapman
Examiner, Art Unit 3761
2/8/07



TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

